

# BORG LAW LLP

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January 9, 2017

## VIA ECF FILING

United States District Court, Southern District of New York

40 Foley Square

New York, NY 10007

Attn.: Hon. J. Paul Oetken, U.S. District Judge

Re: **Vedder Price P.C. v. US Capital Partners, LLC, et al.**

United States District Court, Southern District of New York, Case No. 16 CV 6787-JPO

Dear Honorable Sir:

This firm represents plaintiff Vedder Price P.C. ("***Vedder Price***") in connection with the above-referenced action. Defendants US Capital Partners, LLC, US Capital Partners, Inc., Jeffrey Sweeney, and Charles Towle (collectively, "***Defendants***") are represented herein by Jeffrey Mitchell, Esq. and Judith Cohen, Esq. of Brown George Ross LLP. The undersigned writes to request an adjournment/extension of thirty (30) days with respect to the current briefing schedule relating to Defendants' motion (ECF Doc. Nos. 21-26) to vacate the Clerk's Certificate of Default entered herein and to stay or dismiss this action (the "***Motion***") based upon, *inter alia*, a fee arbitration request filed by Defendants with The Bar Association of San Francisco ("***BASF***") on the same day they filed the Motion.

On December 9, 2016, the parties submitted a joint letter request (ECF Doc. No. 27) as to a briefing schedule for the Motion (requesting that opposition be filed by January 13, 2017 and any reply be filed by February 13, 2017), which the Court granted by Text Only Order on December 9, 2016 (ECF Doc. No. 28). Thereafter, the undersigned submitted a written objection to the jurisdiction of BASF (the "***Objection***"), which he was advised could likely be decided prior to January 13, 2017 if the submission to BASF was complete as of the morning of Tuesday, January 3, 2017 (the day BASF re-opened after being closed the prior week for the Christmas holiday). Additional submissions were required to be made to BASF by each party, however, because Defendants disputed the propriety and legality of the undersigned submitting the Objection, and BASF did not consider same to be fully submitted for consideration until after business hours on Friday, January 6, 2017.



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Because BASF sustaining the Objection and declining jurisdiction over Defendants' arbitral claims would render moot a substantial portion of the arguments made by Defendants in the Motion, and would avoid time and effort being unnecessarily spent by both the parties and the Court, the undersigned sent an email request to Mr. Mitchell on January 7, 2017 requesting Defendants' consent to an adjournment/extension of the existing briefing schedule to allow BASF to decide the Objection; by email dated January 9, 2017, and without explanation, he rejected the undersigned's request for consent.

It is respectfully submitted that the extension/adjournment requested herein is appropriate and reasonable given the above circumstances, and that granting same would neither prejudice the parties nor unreasonably delay this matter. Accordingly, it is respectfully requested that the current briefing schedule be adjourned/extended thirty (30) days to February 13, 2017 for Vedder Price's opposition to the Motion and to March 13, 2017 for Defendants' reply, if any.

In accordance with Rule 3(c) of Your Honor's Individual Practices in Civil Cases, the Court is respectfully advised that: (1) Vedder Price's opposition to the Motion is currently due on January 13, 2017 and Defendants' reply, if any, is currently due on February 13, 2017; the proposed new dates are February 13, 2017 and March 13, 2017, respectively; (2) there has been one prior request for an adjournment/extension; (3) the prior request for an adjournment/extension was granted; and, (4) Defendants refused the undersigned's request for consent, and did so without explanation.

Thank you in advance for Your Honor's consideration of this request. Should the Court have any questions, the undersigned is available at Your Honor's convenience.

Respectfully submitted,



Jonathan M. Borg

cc: Jeffrey A. Mitchell, Esq. (via email & ECF filing)  
Judith Cohen, Esq. (via email & ECF filing)